

RESOLUTION NO. 2020 - 37

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE
VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING A
GENERAL RELEASE AND SETTLEMENT OF ALL
CLAIMS OF ANA GONZALEZ AND FELIX M. GONZALEZ;
PROVIDING FOR AUTHORIZATION; AND PROVIDING
FOR AN EFFECTIVE DATE.**

WHEREAS, on or about November 6, 2019, Ana Gonzalez and Felix M. Gonzalez (collectively, the “Gonzalezes”) filed a lawsuit styled *Ana Gonzalez and Felix M. Gonzalez v. Village of Key Biscayne* in the Circuit Court of Miami-Dade County, Florida under case number 2019-032826-CA-01, seeking damages allegedly related to an incident on January 10, 2018 (the “Lawsuit”); and

WHEREAS, the Gonzalezes are willing to settle all of their claims that were or could have been brought against the Village pertaining to the Lawsuit, including all costs and attorney’s fees incurred in this matter, and release the Village of any liability, in exchange for a lump-sum payment of \$87,500, which will be paid by the Village’s insurer, all as set forth in the General Release of All Claims attached hereto as Exhibit “A” (the “Release”); and

WHEREAS, although the Village disputes the merits of the Lawsuit, the Village Council desires to accept the Release, thereby disposing of all claims against the Village by the Gonzalezes, and authorize the Village Manager and Village Attorney to prepare and execute all settlement and related documents consistent with the terms of the Release; and

WHEREAS, the Village Council finds that this Resolution is in the best interest and welfare of the residents of the Village.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE
VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:**

Section 1. Recitals. That each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. Approval. That the Village Council approves the settlement of all claims that were or could have been asserted by the Gonzalezes as a result of the alleged incident on January 10, 2018, including costs and attorney's fees, for \$87,500, which will be paid by the Village's insurer, all as set forth in the Release attached hereto as Exhibit "A."

Section 3. Authorization. That the Village Council authorizes the Village Manager and the Village Attorney to prepare and execute all settlement and related documents consistent with the terms of the Release attached hereto as Exhibit "A" and the intent of this Resolution.

Section 4. Effective Date. That this Resolution shall be effective immediately upon adoption hereof.

PASSED and ADOPTED this 9th day of June, 2020.

ATTEST:



PETER J. KULPA
INTERIM VILLAGE CLERK



MICHAEL W. DAVEY
MAYOR



APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



WEISS SEROTA HELFMAN COLE & BIERMANN, P.L.
VILLAGE ATTORNEY

GENERAL RELEASE OF ALL CLAIMS

Recitals

A. As used in this General Release, the term "Releasors" shall mean ANA GONZALEZ and FELIX M. GONZALEZ, as well as their heirs, executors, administrators, personal representatives, successors and assigns.

B. As used in this General Release, the terms "Releasee" shall collectively mean the VILLAGE OF KEY BISCAYNE, as well as its past, present and future agents, agencies, officials, councilmembers, commissioners, employees, boards, representatives, attorneys, successors and assigns, in both their individual and official capacities, and any entity or person in privity with them, jointly or severally, singular or plural, wherever the context so admits or requires,

WHEREAS, Releasors commenced a lawsuit against the Releasee relating to a motor vehicle accident in the matter of Ana Gonzalez and Felix M. Gonzalez v. Village of Key Biscayne, Case No. 2019-032826 CA 01, filed in the 11th Judicial Circuit Court, Miami-Dade County, Florida (the "Lawsuit");

WHEREAS, Releasee has denied and continues to deny any wrongdoing and has denied and continues to deny any liability for the allegations which were the subject matter of the above-referenced Lawsuit, but is desirous of entering into a compromise settlement of this claim in good faith, to avoid litigation and attendant costs; and

WHEREAS, Releasors have agreed to accept the total sum of Eighty-Seven Thousand Five-Hundred and 00/100 Dollars (\$87,500.00) (the "Total Payment"), in full and final compromise and settlement of any and all claims they may have, whether now not known or contemplated, against Releasee;

NOW, THEREFORE, KNOW ALL MEN by these presents: That the said and undersigned Releasors for and in consideration of the payment to them of the Total Payment and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby remise, release and forever discharge Releasee of and from all manner of action and actions, cause and causes or actions, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which Releasors ever had, now has, or which any personal representative, successor, heir or assign of Releasors, hereafter can, shall or may have against said Releasee, by reason of any matter, cause or thing, from the beginning of the world to the date of these presents, including but not limited to any and all claims arising out of or related to the above-described Lawsuit and any and all claims for compensatory damages, injunctive relief, declaratory relief, punitive damages, interest, costs, medical and hospital expenses, attorney's fees, civil rights violations, federal claims, statutory or common law claims, lost wages, impairment of earning capacity, physical, emotional or psychological injury, companionship and support, consortium, mental anguish, pain and suffering, bodily injury, past and future medical expenses, property damage or loss of use of property.

Releasors state that at the time of the execution of this General Release there are no outstanding claims or liens by way of reimbursement or subrogation by insurance carriers,

attorneys, hospitals, medical providers or other entities including Medicare or Medicaid, for amounts paid or owed on behalf of Releasors by reason of the incident which is described above, or, in the alternative, if there are any such outstanding claims or liens, Releasors will indemnify and hold Releasee harmless from said amounts and will fully satisfy and resolve those claims including but not limited to any hospital liens, medical liens, attorneys liens, insurance liens and/or liens held by Medicaid or Medicare, any other governmental agency, or any other entity.

This General Release shall not be construed as an admission of liability or responsibility by Releasee, but is rather a compromise settlement designed to avoid continued litigation. Releasee specifically denies liability for the claims brought by Releasors, deny all allegations of Releasors and deny any wrongdoing whatsoever.

Releasors acknowledge and agree that this is a General Release of all claims. Releasors expressly waive and assume the risk of any and all claims for damages, and any nature whatsoever, which exist as of this date, of which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise and which, if known, would materially affect Releasors' decision to enter into this settlement and provide this General Release. Releasors further agree that they have accepted the sum specified herein as a complete compromise of all matters involving disputed issues of law and fact, and assume the risk that the facts or law may be different than they believe them to be.

Releasors further warrant that no promise or inducement not herein expressed has been made; that this General Release is given in good faith and discharges Releasee from all liability; that the undersigned are over the age of twenty-one (21) years and legally competent and fully authorized to execute this General Release; that the undersigned have read the contents of this General Release, have been adequately represented by counsel of their own choice, and sign this General Release with full knowledge and appreciation of its meaning.

THIS IS A GENERAL RELEASE - READ CAREFULLY BEFORE SIGNING

[SIGNATURE PAGES FOLLOW]